

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

DONALD L. PALMER,

:

Case No. C-1-00-882

Petitioner,

District Judge Thomas M. Rose

-vs-

Magistrate Judge Michael R. Merz

MARGARET A. BAGLEY, Warden,

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Respondent.

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**ORDER TERMINATING MOTION TO EXCLUDE EXHIBITS**

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This case is before the Court on Respondent's Motion to Strike Petitioner's Evidentiary Hearing Exhibits (Doc. No. 91).

Rather than deciding this Motion separately from the merits of the case, the Court will consider the arguments made in the Motion, the Memorandum in Opposition (Doc. No. 92), and the Reply (Doc. No. 93) in its report and recommendations on the merits.

Therefore the Clerk is directed to terminate Doc. No. 91 as a separately pending motion on the docket of this case.

November 11, 2003.

s/ **Michael R. Merz**  
United States Magistrate Judge